

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

<b>In Re:</b>	<b>§</b>	<b>Chapter 11</b>
	<b>§</b>	
<b>W.R. GRACE &amp; CO., et al.,</b>	<b>§</b>	<b>Jointly Administered</b>
	<b>§</b>	<b>Case No. 01-01139 (JKF)</b>
<b>Debtors.</b>	<b>§</b>	
	<b>§</b>	

**FEE AUDITOR'S FINAL REPORT REGARDING  
FEE APPLICATION OF WALLACE, KING, MARRARO & BRANSON, PLLC  
FOR THE THIRTEENTH INTERIM PERIOD**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Thirteenth Interim Fee Application of Wallace, King Marraro & Branson, PLLC (the "Application").

**BACKGROUND**

1. Wallace, King, Marraro & Branson, PLLC ("Wallace King") was retained as special litigation and environmental counsel to the Debtor. In the Application, Wallace King seeks approval of fees totaling \$369,355.70<sup>1</sup> and costs totaling \$67,513.38 for its services from April 1, 2004, through June 30, 2004.

2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time and expense entries included in the exhibits to the Application, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware,

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<sup>1</sup>Although the Application requests \$369,355.70 in fees for this period, this amount reflects a 40% reduction, \$88,920.80, for time spent with regard to the Honeywell litigation. Notwithstanding this discount, the actual amount of fees reviewed is \$458,276.50.

Amended Effective February 1, 2001, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. 330, Issued January 30, 1996, (the "Guidelines"), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. We served on Wallace King an initial report based on our review, and received a response from Wallace King, portions of which response are quoted herein.

### **DISCUSSION**

3. In our initial report, we noted a hotel charge of \$317.35 on January 26, 2004 that may be excessive. The entry is provided below.

C. Marraro - Hotel in Newark 1/26-27 (1 night)	317.35
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Except for New York City and San Francisco, we recommend a ceiling of \$250.00 per day for hotel stays. We asked Wallace King to explain why this charge should not be viewed as excessive.

Wallace King responded as follows:

Wallace King usually has a special rate at this hotel which was unavailable due to high booking at the Short Hills Hilton. No other hotels were available that night in the vicinity of the Short Hills Hilton.

While we appreciate the response, we still recommend a reduction of \$67.35 in expenses.

4. We noted two meal entries totaling \$439.29 that may be excessive. The entries are provided below.

C. Marraro - Meal in NJ with K. Brown on 1/19/04	149.20
C. Marraro - Meal in NJ with J. Agnello, M. Flax, K. Brown and B. Midlothian on 2/13/04 (5 people)	290.09

We recommend a ceiling of \$15 per person for breakfast, \$25 per person for lunch and \$50 per

person for dinner. We asked Wallace King to explain why the entries listed above should not be viewed as excessive. Wallace King responded as follows:

The meals were both dinners. Both meals included taxes/tip at local restaurants in the area near the meetings. When taxes/tips are added the total for each meal is in the neighborhood of the guideline. This area of New Jersey is within 10 miles of New York City and hotels and meals at upscale establishments charge close to New York City prices.

We appreciate the response but recommend a reduction of \$89.29 in expenses.

5. Finally, we noted three transportation charges to and from Newark on January 23, January 26 and January 27, 2004. The entries are provided below.

C. Marraro - Amtrak to Newark on 1/23/2004	150.00
C. Marraro - Amtrak to Newark on 1/26/2004	233.00
C. Marraro - Amtrak from Newark on 1/27/2004	90.00

We asked Wallace King to explain the discrepancy in cost among the three entries. Wallace King responded as follows:

The first entry is actually from Baltimore to Newark which was \$150.00. The second entry for \$233.00 was from Washington, DC Union Station to Newark (a longer trip and therefore a higher cost). The third entry was from Trenton, NJ to Washington, DC for \$90.00 (a shorter trip).

We appreciate the response and offer no objection to these expenses.

## CONCLUSION

6. Thus we recommend approval of fees totaling \$369,355.70 and costs totaling \$67,356.74 (\$67,513.38 minus \$156.64) for Wallace King's services from April 1, 2004, through June 30, 2004.

Respectfully submitted,

**WARREN H. SMITH & ASSOCIATES, P.C.**

By: 

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**FEE AUDITOR**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served First Class United States mail to the attached service list on this 19<sup>th</sup> day of November, 2004.

  
Warren H. Smith

**SERVICE LIST**

Notice Parties

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